IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5340 OF 2005

1. Anvesh Ramchandra Lakhat
2. Kailash Raghu Ibhad
3. Ajay Deshmukh Vangad ...Applicants

Vs.

The State of Maharashtra ...Respondent

Shri. Prakash Naik for the Applicants.
Ms S. D. Shinde, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 24, 2005.

P.C.:

1. Heard the advocate appearing for the Applicants and the learned A.P.P. for the State. The learned advocate appearing for the Applicants submitted that the co-accused Bhagwan has given fatal blow on the head of the deceased and the general allegations regarding the assault by using stumps and cricket bats is made against the present Applicants. He submitted that injuries found on the person of the deceased as mentioned in the Post Mortem report are inconsistent with the prosecution case.

2. The learned A.P.P. submitted that there are about nine eye-witnesses who have deposed that the Applicants alongwith five other accused assaulted the deceased as well as the first informant by using cricket bats and stumps. The learned A.P.P. submitted that it was pre-mediated attack on the deceased by the accused. She pointed out that the

stumps and cricket bats were found to be in broken condition when the same were recovered at the instance of co- accused Bhagwan. She submitted that no case is made out for grant of bail.

3. The F.I.R. is filed by the brother of the deceased who himself was assaulted by the co-accused Bhagwan on his head. According to his version, co-acused Bhagwan assaulted his deceased brother on his head by using a stump and thereafter assault was made by others by using stumps and cricket bats. The version of the eye-witnesses does not appear to be consistent so far as the role played by the Applicants is concerned. It appears that main role is ascribed to the co-accused Bhagwan who has made assault on the head of the deceased. The recovery is made only at the instance of the co-accused Bhagwan and not at the instance of the Applicants. Some of the witnesses have stated that all eight accused persons assaulted the deceased by cricket bats and stumps. The Post Mortem notes prima facie show that the major injury is on the head of the deceased and on other parts of the body of the decesed there is only one abrassion and one C.L.W. The injuries as shown in the Post Mortem Notes do not support the version of the eye-witnesses. At this stage, it appears that fatal blow appears to have been given by the co-accused Bhagwan. Criminal antecedents of the Applicant are not brought on

record. The investigation is completed and chargesheet is filed. The Applicants are in custody from 28th February, 2005. Hence, case is made out for enlarging the Applicants on bail.

4. Accordingly, I pass the following order:

: O R D E R :

i) The Applicants shall be enlarged on bail in connection with **C.R.No.I 12 of 2005 of Dahanu Police Station,** subject to furnishing a personal bond of **Rs.10,000/- each with one or two local sureties** in the like amount.

ii) The Bail is granted subject to condition that the Applicants will report to the concerned Police Station once in a week till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iv) The Applicants shall co-operate with the learned Trial Judge for expeditious disposal of the

trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) Application is disposed of in above terms.

vi) The parties to act upon an authenticated copy of this order.

JUDGE